

CHAPTER 550

PREMIUM PAY

(Includes Overtime, Compensatory Time, Holiday, Night and Sunday Pay)

1. **PURPOSE.** To provide information concerning premium pay entitlements for the performance of overtime, night, Sunday, and holiday work as authorized under Title 5, United States Code (USC) or the Fair Labor Standards Act (FLSA), as appropriate.

2. **ASSISTANCE.** Please refer to Chapter 001 of this Manual for the telephone number to call for additional information or further assistance relative to this Chapter.

3. **COVERAGE.** This Chapter applies to all Federal service employees except those who receive additional compensation for overtime work on a regular and customary basis. This includes the following:

- a. Annual premium pay for standby duty.
- b. Annual premium pay for administratively uncontrollable work.
- c. Overtime pay for "regularly scheduled" overtime work.

Separate guidance is provided to activities with employees who perform overtime work on a regular and customary basis.

4. **POLICY.** It is the Department of the Navy's (DON) policy that the administration of civilian overtime and compensatory time shall be limited to cases of necessity, such as fleet readiness, emergencies, safeguarding life and property, and individual incidences where savings can be clearly demonstrated. When appropriate, consideration should be given to:

- a. Utilization of part-time and intermittent employees, and full-time employees in temporary positions.
- b. Contract work, if not in conflict with generally accepted practices of government employment.
- c. Maximum use of shift work.

5. RESPONSIBILITIES

a. *Activity Head.* Commanding Officers are responsible for controlling the use of overtime in compliance with DON policies and their headquarters command guidance.

b. *Director, Human Resources Office (HRO), Norfolk.* Any questions concerning interpretation or application of information contained in this Chapter should be directed to HRO Norfolk. Situations not covered in this Chapter should be thoroughly checked with HRO Norfolk before pay is authorized.

6. **OVERTIME PAY.** Entitlement to overtime pay is determined in accordance with Chapter 55 of Title 5 USC, and/or the FLSA. Depending upon an employee's grade and the nature of work performed, he/she will be identified as being "exempt" or "nonexempt" from the provisions of FLSA. This determination is recorded on each employee's position description cover sheet and Standard Form 52, Notification of Personnel Action. Employees "exempt" from FLSA are covered only by Title 5 for overtime pay computation. Employees "nonexempt" from FLSA are covered only by FLSA for overtime pay computation. Agencies are no longer required to compare overtime pay entitlements for "nonexempt" employees under Part 550 and Part 551 of Title 5, Code of Federal Regulations. Nonexempt employees continue to be covered by the other premium pay provisions of Title 5, such as night, Sunday, or holiday pay and annual premium pay for regularly scheduled standby duty or administratively uncontrollable overtime work.

a. *Overtime Work*

(1) *Under Title 5.* Overtime work is work ordered and approved which exceeds 40 hours a week or 8 hours a day. Paid leave, holidays, and compensatory time are credited as work when computing overtime entitlement. Pay is computed at one and one-half times the employee's basic rate up to GS-10, step 01.

(2) *Under FLSA.* Overtime work is all work, including all work suffered or permitted, whether ordered or not, which exceeds 8 hours in a day or 40 hours in a week. Pay is computed at one and one-half times the employee's basic rate, including differentials. Paid leave, holidays, and compensatory time are credited as work when computing overtime entitlement.

b. *Time in Official Travel Status.* Time spent traveling from the official duty station which has been ordered and approved and which is outside regular work hours is hours of work for overtime purposes if:

(1) *Under Title 5.* The travel involves performance of work while traveling; or is incident to travel that involves the performance of work; or is carried out under arduous conditions; or results from an event which could not be scheduled or controlled administratively by the U.S. government.

(2) *Under FLSA.* Employee performs work when traveling, including driving a vehicle when ordered to do so; or employee travels as a passenger to a temporary duty station and returns the same day; or employee travels as a passenger on non-workdays during hours which correspond to his/her regularly scheduled working hours; or from an event that cannot be

scheduled or controlled administratively, including travel by an employee to such an event and the return from such event to his/her official duty station; or is carried out under arduous conditions.

c. *Call Back Overtime.* If an employee is called back to work, any unscheduled overtime work the employee performs will be considered to be at least 2 hours in duration for overtime purposes. (Example: An employee who normally works 0800-1630 is called back to work at 1800 to perform an emergency job. The job requires only one hour. The employee must be paid for two hours at his/her overtime rate of pay.)

7. **COMPENSATORY TIME.** A Federal employee (GS or FWS) may elect to earn and use compensatory time which is granted in an amount equal to the amount of overtime worked. All time off may be used in increments established by the Activity Head. Usually, compensatory time off will be granted before annual leave is approved, unless the annual leave would otherwise be forfeited. Compensatory time must be used by the end of the 26th pay period after it is earned. Compensatory time not used during this time period will be paid at the overtime rate at which it was earned.

a. *Employee Entitlement to Compensatory Time Off*

(1) An exempt employee whose basic rate of pay is in excess of GS-10, step 10 may be required by management to take compensatory time off in lieu of being paid for overtime worked.

(2) An exempt employee whose basic rate of pay is equal to or less than GS-10, step 10 may choose between overtime pay and compensatory time off for overtime work.

(3) A nonexempt employee may be granted compensatory time off in lieu of being paid for overtime worked, if requested by the employee. However, such compensatory time may not be required by management.

(4) All FWS employees can accumulate and use compensatory time. (P.L. 104-201 effective September 23, 1996)

b. *When Taken.* Compensatory time off must be granted within a reasonable period of time after the overtime work is performed. To the extent practicable, employees should be granted compensatory time off at times convenient to them.

c. *Documentation of Request for Compensatory Time.* An employee must make a written request to substitute compensatory time off for overtime payment. This request can be satisfied by having the employee make a notation on the overtime authorization.

d. *Accrual and Carryover of Compensatory Time*

(1) GS employees whose rates of basic pay are in excess of the maximum rate of GS-10 should be required to accrue 80 hours of compensatory time off in lieu of overtime pay for irregular and occasional overtime work they are required to perform. All other GS employees may either elect to be paid overtime or may request compensatory time for such overtime work.

(2) Normally, the amount of compensatory time an employee may accumulate is 80 hours. Irregular or occasional overtime worked after an employee has accumulated 80 hours of compensatory time should be reported as overtime and the employee paid for these hours at overtime rates. Heads of activities may approve in writing exceptions to this 80 hour accumulation limit. However, the use of this authority should be limited to those situations where an exception is clearly warranted and is in the best interests of the activity.

(3) Normally, the maximum amount of compensatory time an employee may be permitted to carry into the next leave year is 160 hours. Heads of activities may grant written exceptions to the 160 hour carryover limit. However, the use of this authority should be limited to those situations where an exception is clearly warranted and is in the best interests of the activity. Unless an exception to the 160 hour carryover limit has been authorized, compensatory time in excess of 160 hours will be paid as overtime.

(4) Ordinarily, an employee's date of transfer or separation will be fixed to include compensatory time. Otherwise, the employee will be paid for such time based on the rate in effect at the time the overtime was worked.

e. *Compensatory Time Off for Religious Observances.* A Federal employee (GS or FWS) may elect to work compensatory overtime for the purpose of taking time off without charge to leave when personal religious beliefs require that the employee abstain from work during certain periods of the workday or workweek. To the extent that such modifications in work schedules do not interfere with the efficient accomplishment of the activity's mission, the supervisor shall afford the employee the opportunity to work compensatory overtime and shall grant compensatory time off (hour for hour) to an employee requesting such for this purpose. The compensatory overtime may be worked before or after the grant of compensatory time off. Compensatory time off for religious purposes does not in any way involve the payment of premium pay for any work performed in excess of an 8 hour workday or a 40 hour workweek.

8. **HOLIDAY PAY.** An employee who is assigned to work on a holiday will be paid at his/her regular rate of basic pay plus premium pay at a rate equal to his/her rate of basic pay. If the employee is required to perform holiday duty, premium pay is paid for two hours even if the work does not last that long. An employee who is assigned overtime work on a holiday is paid in the same manner as for overtime work performed on other days. (Example: An employee who works from 0800-2000 on a holiday receives holiday pay for the first eight hours, and overtime pay for all time in excess of eight hours.)

9. NIGHT PAY

a. A GS employee is entitled to a night shift differential of 10 percent of his/her basic pay for performing regularly scheduled work between 1800 and 0600.

b. A FWS employee is entitled to pay at his/her scheduled rate plus a differential of 7.5 percent of the scheduled rate for regularly scheduled non-overtime work when a majority of the work hours occur between 1500 and 2400, or 10 percent of the employee's scheduled rate if the majority of work hours occur between 2300 and 0800. The night shift differential is paid for the entire shift when the majority of hours, meaning a number of whole hours greater than one-half (including meal breaks), fall within the specified periods.

c. Payment of night differential pay is prohibited to employees who do not actually perform work during the time corresponding to night differential pay. Night differential pay may not be paid for any period when no work is performed, including holidays and periods of paid leave, excused absence with pay, compensatory time off, or time off as an incentive or performance award (P.L. 104-208, Section 101(f), Section 630, effective 09/30/96).

10. PAY FOR SUNDAY WORK

a. An employee who performs work during a regularly scheduled 8-hour period of service, which is not overtime work and a part of which is performed on Sunday, is entitled to pay for the entire period of service at the rate of his basic pay, plus premium pay at a rate equal to 25 percent of his rate of basic pay.

b. Payment of Sunday premium pay may not be paid for any employee who does not actually perform work on Sunday. Sunday premium pay may not be paid for any period when work is not performed, including holidays and periods of paid leave, excused absence with pay, compensatory time off, credit hours, or time off as an incentive or performance award.
(P.L. 105-61 effective October 10, 1997)

11. OVERTIME PAY FOR TRAINING. Premium pay is generally prohibited for employees in training; however, there are exceptions. Questions concerning specific situations should be referred to HRO Norfolk.